IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 11356 of 2005

Between:

1 K. Bal Reddy S/o. Ram Reddy,
R/o. Damargidda Mandal,& Proper, Mahabub Nagar District.s
2 A. Kanki Reddy, S/o. Bheem Reddy,
R/o. Damargidda Mandal,& Proper, Mahabub Nagar District.s

..... PETITIONER(S)

AND

1 The District Panchayat Officer, Mahabub Nagar District.
2 The Divisional Panchayat Officer, Narayanpeth Division, Dist : Mahabub Nagar.
3 The Surpanch, Gram Panchayat Damargidda, Rep. by it's Surpanch, Sri Bheemaiah Goud, S/o. Dattappa Goud, R/o. Damargidda, Mandal &Proper, Dist Mahabub Nagar.
4 Putti Edappa S/o. Putti Narsappa,
R/o. Damargidda Mandal &Proper Mahabub Nagar District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pass an order writ particularly writ in the nature of Mandamus declaring the inaction of the respondent No.3 herein against the respondent No. 4 herein for his illegal construction over Masjeed at premises No: 1-5 of Damargidda Mandal & proper, District : Mahabubnagar, in pursuance of Complaint dt:7th May, 2005, Which is received by the respondent No. 3 on 8th May, 2005 as, arbitrary, illegal and pass any other suitable orders or directions in favour of the petitioner and against the respondents herein as deem fit in the circumstances of the case in the interests of justice.

Counsel for the Petitioners: MR.BAJRANG SINGH THAKUR

Counsel for the Respondents: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court made the following :

ORAL ORDER:

This writ petition has been filed by the petitioners who are two in number with a prayer to issue a writ of Mandamus declaring the inaction of the 3rd respondent in preventing the 4th respondent from making illegal constructions over Masjeed at premises No.1-5 of Damargidda Mandal, Mahabubnagar District, as illegal and arbitrary.

The petitioners are the residents of Damargidda village. It is their contention that the 4th respondent is making constructions over an area of "Doravari Peerla Masjeed" situated at the cross roads on the main road leading to Yanagondi at the Bus Stop of Damargidda. It is their further case that the Sarpanch, Gram Panchayat, Damargidda has not taken any action in spite of their complaining of the illegal constructions made by the 4th respondent over Doravari Peerla Masjeed.

The 3rd respondent filed counter affidavit wherein it is stated that the permission granted to the 4th respondent has been cancelled and further steps could not be taken because of the pendency of the writ petition.

I deem it appropriate to refer to the relevant portion of the counter affidavit which reads thus:

> *"That after elaborate enquiry and discussion with the members of the Gram Panchayat and verifying the Previous Revision Records, the letter of Sri Raja Laxmanappa Deshmukh, Kakalwar, dated 18.8.2004 which falsifies the claim of the respondent No.4 as if he purchased the same from Sri Raja*

Laxmanappa Deshmukh, Kakalwar, the report of the respondent No.2, dated 18.12.2004 we have cancelled the permission granted to the respondent No.4 herein to make construction over "Doravari Peerla Masjeed" situated at Premises No.1-5 of Damargidda Village on 26.4.2005.

That in spite of canceling permission for construction over premises No.1-5 of Damargidda, as the respondent No.4 has nothing to do with the ownership of the property and it is Public Place meant of putting Alams for public benefit of our villagers, it seems the respondent No.4 was proceeding with construction activity illegally and the petitioners along with other gave complaint on 8th May, 2005 for immediate stopping construction activity of the respondent No.4 over premises bearing No.1-5 of Damargidda village. While we were planning to issue notices to take legal action for stopping and for dismantling the premises, in the meanwhile, the petitioners herein approached this Hon'ble court and this Hon'ble Court granted interim direction against the respondent No.4 herein for not making any sort of construction over premises bearing No.1-5 of Damargidda village."

The 4th respondent filed counter affidavit contending that he purchased the property from Raja Laxmanappa Deshmukh and therefore, he is entitled to proceed with the constructions therein. The question whether the sale in favour of the 4th respondent is valid or not stands outside the scope of the writ petition. It is suffice to say that the 3rd respondent has cancelled the permission granted to the 4th respondent and further action could not be taken because of the pendency of the writ petition.

In such a situation, the writ petition can be disposed of giving liberty to the 3rd respondent to proceed in accordance with law with regard to the further course of action pursuant to the cancellation of the permission. The 3rd respondent has to take up appropriate decision as to further course of action, within a period of three months from the date of receipt of a copy of this order. No costs.

(B. SESHASAYANA REDDY, J.)

29th June, 2005

bcj

To

1 The District Panchayat Officer, Mahabub Nagar District.
2 The Divisional Panchayat Officer, Narayanpeth Division, Dist : Mahabub Nagar.
3 The Sarpanch, Gram Panchayat Damargidda, rep. By Sri Bheemaiah Goud, S/o. Dattappa Goud, R/o. Damargidda, Mandal &Proper, Dist Mahabub Nagar.
4 Two C.Cs. to the Government Pleader for Panchayat Raj and Rural Development, High Court Buildings, Hyderabad (OUT)

5 Two C.D. copies.